

---

---

**Z-2571**  
**WALK HIS WAY, LLC**  
**R1 TO R3W**

**STAFF REPORT**  
**June 12, 2014**

---

---

---

---

**Z-2571**  
**WALK HIS WAY, LLC**  
**R1 TO R3W**

**Staff Report**  
**June 12, 2014**

---

---

**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner, who is also the owner and represented by attorney Stuart Boehning, is requesting a rezone with commitment from R1 to R3W for a lot located at the northwest corner of Lindberg Road and Salisbury Street, commonly known as 600 Lindberg Road, West Lafayette, Wabash 7 (SE) 23-4. If rezoned, petitioner intends to apply for a special exception from the ABZA for an adult day care operation (SIC 8322).

**ZONING HISTORY AND AREA ZONING PATTERNS:**

This site and all surrounding land is zoned R1, Single-family Residential. The closest non-residential zoning is to the west at the corner of Northwestern Avenue and Lindberg. There have been no recent rezones in the area.

**AREA LAND USE PATTERNS:**

A single-family home is located on the subject lot; uses to the north, west and south are single-family. A church is located to the east across Salisbury as well as southwest across Lindberg Road. The West Lafayette Community School Corporation owns the building southeast across the intersection of Lindberg and Salisbury Street.

**TRAFFIC AND TRANSPORTATION:**

Traffic counts taken in 2013 along Salisbury show that an average of over 14,000 vehicles use this road daily; counts taken in 2010 along Lindberg Road show an average daily traffic count of nearly 6,000 vehicles. Per *The Thoroughfare Plan*, Salisbury and Lindberg are classified as urban secondary arterials requiring a 40' building setback. West Lafayette will be working on the traffic signal at this intersection and road construction of Salisbury north of Lindberg is underway.

The site is currently served by a residential driveway cut on Lindberg Road. Any change in land use will require new driveway approval from the West Lafayette City Engineer's Office.

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

City utilities serve the site; no buffering is required between R1 and R3W zoning.

**STAFF COMMENTS:**

The site in question is located in a residential area, but is also at the intersection of two busy streets within that residential area. Two of the other four corners have public

and/or quasi-public uses (a church and a school building). Petitioner is requesting R3W zoning in order to apply for a special exception for an adult day care center. These centers are permitted by right in all of the commercial zones but permitted in the R3 and R4 zones only by special exception.

Typically staff would not recommend in favor of R3W zoning in an area dominated by R1 zoning. However, in this instance, petitioner has attached a commitment to this rezoning application limiting the use of this property to an adult day care center. The submitted commitment states "The only use permitted on the Real Estate shall be an adult daycare (SIC 8322). No other uses otherwise allowed in the R3W zoning district, including multi-family residential structures, shall be permitted." Given the location of the property at a busy intersection and the public/quasi-public uses on 2 of the other corners, and the residential nature of the proposed use, this request is supportable.

**COMMITMENT RECOMMENDATION:**

Approval

**STAFF RECOMMENDATION:**

Approval

RECEIVED  
MAY 15 2014  
THE AREA PLAN COMM.  
OF TIPPECANOE CO.

County Parcel Number: 164-04000-0036  
State ID Number: 79-07-07-451-003.000-026

COMMITMENT

THIS COMMITMENT is made this 15 day of May, 2014, by WALK HIS WAY LLC (the "Petitioner"), pursuant to Indiana Code §36-7-4-1015.

1. Petitioner makes this Commitment as the owner (the "Owner") of certain real estate located in Tippecanoe County, Indiana, commonly known as 600 Lindberg Road, West Lafayette, Indiana 47906, more particularly described on Exhibit A attached hereto and incorporated by reference herein (the "Real Estate").

2. Petitioner has filed a request with the Area Plan Commission of Tippecanoe County, Indiana (the "APC"), to rezone the Real Estate from R1 to R3W, which request is pending before the APC as Case No. Z-2571.

3. Petitioner hereby agrees and makes the following commitment in connection with the rezoning request in Case No. Z-2571:

**The only use permitted on the Real Estate shall be an adult daycare. No other uses otherwise allowed in the R3W zoning district, including multi-family residential structures, shall be permitted.**

SIC 8322

Petitioner understands and agrees that this Commitment is given to the APC, with a copy to the West Lafayette City Council (the "Legislative Body"), as inducement for the recommendation for and approval of the zoning request in Case No. Z-2571. Petitioner further understands and agrees that the approval of the rezoning request in Case No. Z-2571 by the Legislative Body constitutes good and valuable consideration for the giving of this Commitment.

4. This Commitment shall be a covenant running with the Real Estate and binding and enforceable against Petitioner, any subsequent owner, or any other person who acquires any interest in the Real Estate. Any change or modification of this Commitment shall only be made with the approval of the APC at a public hearing in accordance with all rules and regulations of the APC.

5. Petitioner agrees that each of the following shall be a "specially affected person" under Indiana Code §36-7-4-1015(d)(3), who shall each independently be entitled to bring an action to enforce the terms and conditions of this Commitment in the Circuit or Superior Courts of Tippecanoe County, Indiana:

- (a) the APC;
- (b) the Area Board of Zoning Appeals of Tippecanoe County, Indiana; and
- (c) the appropriate Administrative Officer designated in the Unified Zoning Ordinance for Tippecanoe County, Indiana.

EXECUTED by the above-named Petitioner on the day and year first above written.

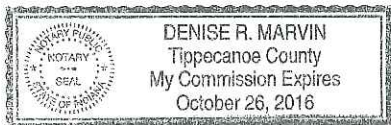
**WALK HIS WAY LLC**

By: Catherine Benner  
Catherine Benner, Sole Member

STATE OF INDIANA                     )  
  )SS:  
COUNTY OF TIPPECANOE            )

Before me, a Notary Public in and for said County and State, on this 15 day of May, 2014, personally appeared **Catherine Benner, Sole Member of WALK HIS WAY LLC**, who acknowledged the execution of the above and foregoing Commitment as her free and voluntary act and deed.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed my official seal.



Denise R. Marvin  
Printed: Denise R. Marvin  
Notary Public  
County of Residence: Tippecanoe  
My Commission Expires: October 26, 2016

**I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. By: Stuart P. Boehning, Preparer**

This instrument was prepared by **Stuart P. Boehning** of the firm BENNETT BOEHNING & CLARY LLP, Attorneys at Law, 415 Columbia Street, Suite 1000, P.O. Box 469, Lafayette, IN 47902-0469; Telephone: (765) 742-9066.